

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B05

PLR-155170-09

Date:

June 08, 2010

Legend

Distributing =

Shareholder =

Person =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

Dear :

This letter responds to your letter of December 11, 2009 requesting that we supplement our letter ruling dated August 26, 2008 (PLR-118350-08) (the “Original Ruling”). The information submitted for consideration is summarized below. Capitalized terms used but not defined in this letter have the meanings assigned to them in the Original Ruling.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. In particular, this office has not reviewed any information pertaining to, and has made no determination regarding, whether the completed and proposed post-External Distributions transactions described in this letter (collectively, the “Proposed Transaction”) or the transactions addressed in the Original Ruling: (i) satisfy the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations; (ii) are used principally as a device for the distribution of the earnings and profits of any of the distributing or controlled corporations (see section 355(a)(1)(B) and § 1.355-2(d)); or (iii) are part of a plan (or series of related transactions) pursuant to which one or more persons has acquired or will acquire directly or indirectly stock representing a 50-percent or greater interest in any of the distributing or controlled corporations (see section 355(e) and § 1.355-7).

Supplemental Facts

The External Distributions were completed on Date1. Following the External Distributions and a one-for-two reverse stock split with respect to the Distributing Common Stock and Distributing Class B Common Stock, Distributing had outstanding

approximately a shares of Distributing Common Stock and b shares of Distributing Class B Common Stock. Each share of Distributing Common Stock entitles its holder to c vote per share, and each share of Distributing Class B Common Stock entitles its holder to d votes per share when voting together with the Distributing Common Stock as a single class. In general, holders of Distributing Common Stock and Distributing Class B Common Stock vote together as a single class on all matters, including the election of Distributing's directors; however, holders of Distributing Common Stock, acting as a single class, are entitled to elect e percent of Distributing's directors.

As of Date2, Shareholder owned, directly or indirectly, (i) approximately f shares of Distributing Common Stock, representing g percent of the class and (ii) all of the outstanding shares of Distributing Class B Common Stock. Also as of Date2, Person owned approximately h shares of Distributing Common Stock, representing i percent of the class. Pursuant to an agreement between Shareholder and Person, Person generally has the right to vote all of the shares of Distributing Common Stock and Distributing Class B Common Stock held by Shareholder. To the best of Distributing's knowledge, two investment advisors are the only other shareholders of Distributing that hold 5 percent or more of the aggregate voting power or value of its outstanding stock (the "Investment Advisors"). For purposes of this ruling, the term "Controlling Shareholders" includes Shareholder and any person that is a controlling shareholder within the meaning of § 1.355-7(h)(3), and the term "Public Shareholders" includes each Distributing shareholder other than Person and any Controlling Shareholder.

Distributing states that its management determined at the time of the External Distributions that the amount of cash and other liquid assets held by Distributing did not exceed the reasonable needs of Distributing's businesses, including for possible acquisitions. Distributing states that the uncertainty and volatility existing in the capital markets since the time of the External Distributions have adversely impacted its ability to make acquisitions. Because Distributing's management considers Distributing Common Stock to be undervalued by the capital markets, Distributing has been repurchasing shares of Distributing Common Stock in open market transactions and intends to continue to do so.

Specifically, between Date4 and Date6, Distributing repurchased approximately j shares of Distributing Common Stock in open market transactions (the "Completed Open Market Repurchases"). Distributing's management would like to continue repurchasing shares of Distributing Common Stock in open market transactions (the "Proposed Open Market Repurchases," and together with the Completed Open Market Repurchases, the "Open Market Repurchases") or in privately negotiated transactions. All Distributing shareholders were allowed to participate in and benefit from the Completed Open Market Repurchases, and all Distributing shareholders may participate in and benefit from the Proposed Open Market Repurchases. Distributing states that it is indifferent as to which of its shareholders participate in the Open Market Repurchases, and that the Open Market Repurchases are not motivated to any extent

by a desire to increase or decrease the ownership percentage of any particular shareholder or group of shareholders.

In addition, between Date3 and Date5, Shareholder sold approximately k shares of Distributing Common Stock through a combination of open market transactions and privately negotiated sales. As of Date5, Shareholder continues to own all of the outstanding shares of Distributing Class B Common Stock.

Supplemental Representation

The following representation is made by Distributing with respect to the Open Market Repurchases:

All of the facts, representations and statements contained in the Original Ruling are hereby affirmed as of the date of the External Distributions, including the representation that none of the External Distributions is part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire, directly or indirectly, stock representing a 50-percent or greater interest (within the meaning of Section 355(d)(4)) in Distributing or any of the controlled corporations (including any predecessor or successor of any such corporation).

Supplemental Rulings

Based on the information submitted and the representations set forth above, we rule as follows:

1. For purposes of determining the “voting power” (within the meaning of Section 355(d)(4)) of Distributing Common Stock and Distributing Class B Common Stock, the voting power of such stock will be measured by reference to its relative ability to elect Distributing directors. Rev. Rul. 69-126, 1969-1 C.B. 218.
2. For purposes of testing the effect of the Open Market Repurchases on the External Distributions under section 355(e):
 - a. The Open Market Repurchases will be treated as being made pro rata from the Public Shareholders to the extent Distributing can demonstrate that such Open Market Repurchases were not made from one or more of the Controlling Shareholders or from Person. Any Open Market Repurchases treated as being made pro rata from the Public Shareholders will not affect the determination of the percentage of the total combined voting power or value of the stock of Distributing acquired (within the meaning of section 355(e)(2)(A)(ii)) by any particular Public Shareholder.

- b. Any increase in the percentage, by vote or value, of Distributing stock owned by Public Shareholders that may result from Open Market Repurchases with respect to which Distributing cannot demonstrate that such Open Market Repurchases are not made from one or more Controlling Shareholders will be disregarded (and not treated as an acquisition within the meaning of section 355(e)(2)(A)(ii)) to the extent of any decrease in the percentage, by vote or value, respectively of Distributing stock owned by Public Shareholders that results from Open Market Repurchases made from Public Shareholders.
- c. Any increase in the percentage, by vote or value, of Distributing stock owned by any Controlling Shareholder that may result from Open Market Repurchases with respect to which Distributing can demonstrate that such Open Market Repurchases are not made from such Controlling Shareholder will be disregarded (and not treated as an acquisition within the meaning of section 355(e)(2)(A)(ii)) to the extent of any decrease in the percentage, by vote or value, respectively of Distributing stock owned by such Controlling Shareholder that results from Open Market Repurchases made from such Controlling Shareholder.
- d. The effect of any Open Market Repurchase will only be taken into account under Section 355(e) to the extent such Open Market Repurchase (without regard to its treatment under this ruling letter) is part of a plan (or series of related transactions) that includes the External Distributions.

Supplemental Caveats

No opinion is expressed about the tax treatment of the Proposed Transaction under other provisions of the Code and regulations or on the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings and the rulings contained in our Original Ruling.

In particular, no opinion is expressed regarding whether the Proposed Transaction or the transactions addressed in the Original Ruling: (i) satisfy the business purpose requirement of § 1.355-2(b) of the Income Tax Regulations; (ii) are used principally as a device for the distribution of the earnings and profits of any of the distributing or controlled corporations (see section 355(a)(1)(B) and § 1.355-2(d)); or (iii) are part of a plan (or series of related transactions) pursuant to which one or more persons has acquired or will acquire directly or indirectly stock representing a 50-percent or greater interest in any of the distributing or controlled corporations (see section 355(e) and § 1.355-7).

In addition, no opinion is expressed regarding whether Person is or was a “controlling shareholder” within the meaning of § 1.355-7(h)(3), or the federal income tax treatment of any increase or decrease in the percentage, by vote or value, of Distributing stock owned by Person that may result from any Open Market Repurchase that occurred or occurs at a time when Person was not or is not a controlling shareholder.

Procedural Statements

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return for which it is relevant. Alternatively, any taxpayer filing its return electronically may satisfy this requirement by attaching a statement to the return that provides the date and control number of this letter ruling.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Douglas C. Bates

Douglas C. Bates
Assistant to the Branch Chief, Branch 5
Office of Associate Chief Counsel
(Corporate)